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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,401	12/21/2001	Charlotte S. Centuori	5065US (01-01-116)	3602

7590 01/15/2004

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EXAMINER

MENDOZA, ROBERT J

ART UNIT	PAPER NUMBER
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3713

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DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,401

Applicant(s)

CENTUORI ET AL.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-17, 20-23, 25-29 and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al (USPN 6,113,495).

Walker, in FIG. 3, col. 4:34-67, col. 6:1-21, col. 7:50-67, discloses a game unit comprising at least one central processing unit configured to effect play of a game, at least one display in communication with the at least one central processing unit, at least one audio card in communication with at least one game unit and a audio output element in communication with the at least one audio card , the audio output element configured to provide a user of the game unit with sound substantially isolated from ambient sound of an environment in which the game unit is located. Walker, in col. 7:50-67 and col. 8:1-10, discloses an audio headset configures to operatively interconnect wit the audio output element and provide the substantially isolated sound. It is inherent to utilize an audio jack to connect a headset/headphones to a game unit. The audio jack is the common interface between the headset and the game unit. Walker, in col. 5:1-67, col. 7:1-67 and col. 8:1-67, discloses the audio element comprises a transmitter and the audio headset comprises a receiver member configured to receive the audio signals transmitted by the transmitted member. It is inherent for a transmitter and a receiver to operate at the same frequency. This is necessary for information to be properly transmitted between a transmitter and

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a receiver. Walker, in col. 5:1-67, col. 7:1-67 and col. 8:1-67, discloses a multi-channel mixer circuit in communication with the audio card, the multi channel mixer circuit facilitates selection of at least one audio channel by a user of the game unit. Walker, in col. 5:1-67, col. 7:1-67, col. 8:1-67, col. 9:1-67 and col. 10:1-67, discloses the multi channel mixer circuit is configured to transmit audio signals of at least two selected audio channels to the audio output element, the audio output element is configured to provide a user of the game unit with information with respect to game play on the game unit. Walker, in FIG. 3, col. 5:1-67, col. 7:1-67 and col. 8:1-67, discloses at least one audio speaker in communication with the at least one audio card and the audio signals are transmitted to the audio output element and the speaker.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 24, 30-32 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of OFFICIAL NOTICE.

Walker does not disclose an audio output element including a volume adjustment control and an audio headset configured to communicate wirelessly. OFFICIAL NOTICE has been taken that it is common within the art to use volume adjust control and wireless communication. It is common to facilitate users in lowering or raising the volume of sound being heard from headphones or speakers. Wireless communication is common within the art to give users the freedom of increasing their distances from a game unit without being tethered to the game unit.

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One having ordinary skill in the art would have found it obvious to incorporate an audio output element including a volume adjustment control and an audio headset configured to communicate wirelessly, in view of OFFICIAL NOTICE, in order to facilitate users in lowering or raising the volume of sound being heard from headphones or speakers and to give users the freedom of increasing their distances from a game unit.

Claims 18, 19 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of Gimmon (USPN 5,096,195).

The disclosure of Walker has been discussed above and, therefore, is incorporated herein. Walker lacks in disclosing a portable game unit configured to wirelessly communicate with a central controller. Gimmon, in an analogous game system, teaches, in FIGS. 1-4 col. 4:15-49 and col. 6:45-67, portable game units configured to wirelessly communicate with a central controller. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Gimmon in to the disclosed invention of Walker. One would be motivated to combine the teachings of Gimmon with the disclosure of Walker in order to allow game players to play a game without remaining stationary and increase the excitement of the game.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM

RM
January 9, 2004


Teresa Walberg
Supervisory Patent Examiner
Group 3700